

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

NICOLE LOGAN, et al.,  
Plaintiffs,  
  
v.  
  
CITY OF PULLMAN POLICE  
DEPARTMENT, et. al.,  
Defendants.

No. CV-04-0214-FVS

ORDER STRIKING MOTION FOR  
RECONSIDERATION

**THIS MATTER** came before the Court on the Defendants' Motion for Reconsideration of Referral to Special Magistrate Re: Plaintiffs' Motion for Sanctions, Ct. Rec. 568. The Plaintiffs are represented by James W. Beck, Thaddeus P. Martin, and Darrell L. Cochran. The Defendants are represented by Andrew G. Cooley, Kimberly J. Waldbaum, Richard B. Jolley, and Stewart A. Estes.

**BACKGROUND**

On June 6, 2006, the Plaintiffs filed a Motion for Sanctions, alleging that defense counsel violated Washington Rule of Professional Conduct Rule 4.2(a) by communicating with Chris Lee, a member of the Plaintiff class, without the permission of class counsel. (Ct. Rec. 508.) In response, the Defendants urged the Court to deny the Motion for Sanctions or, in the alternative, to refer the motion to a Special Master for investigation of the relevant facts. (Ct. Rec. 523 at 2.)

On August 21, 2006, this Court referred the Motion for Sanctions

1 to Magistrate Judge Leavitt for hearing and determination. (Ct. Rec.  
2 547 ¶ 2.) Judge Leavitt requested supplemental briefing from the  
3 parties and conducted at least four hearings between August 31 and  
4 October 13. (Ct. Rec. 550; Ct. Rec. 551; Ct. Rec. 558; Ct. Rec. 563.)  
5 On November 7, Judge Leavitt held an evidentiary hearing and took the  
6 Plaintiffs' Motion for Sanctions under advisement. (Ct. Rec. 580.)

7 On October 23, 2006, the Defendants filed the present Motion for  
8 Reconsideration. The Defendants noted the motion for hearing on  
9 November 2 and simultaneously filed a Motion to Shorten Time. (Ct.  
10 Rec. 566.) The Defendants' brief is 44 pages in length and is  
11 accompanied by an Ex Parte Motion For Permission to File an Overlength  
12 Brief. (Ct. Rec. 568; Ct. Rec. 565.) In their response, the  
13 Plaintiffs moved to the strike the Motion for Reconsideration on  
14 procedural grounds. (Ct. Rec. 573.)

## 15 **DISCUSSION**

### 16 **A. Notation of Motion for Hearing**

17 Local Rule 7.1(h) requires an attorney who files a motion to  
18 concurrently file a notice setting a time and date for hearing the  
19 motion. Hearings must be set at least 25 days after the filing of the  
20 motion unless the court waives the time requirement. A party seeking  
21 waiver of the usual 25 days must "set forth in detail the reasons for  
22 an expedited hearing." L.R. 7.1(h)(6).

23 The Court finds that the Defendants' delay in filing their Motion  
24 for Reconsideration warrants dismissal of the motion. By waiting to  
25 file their Motion for Reconsideration until late October, 11 days  
26 before the scheduled evidentiary hearing before Judge Leavitt, the

1 Defendants forced their opponents to choose between responding to the  
2 motion and preparing for the evidentiary hearing. This choice  
3 compromised the Plaintiffs' ability to respond to the motion for  
4 reconsideration and to prepare for the evidentiary hearing. Nor was  
5 the late filing of the Motion for Reconsideration justified by the  
6 circumstances. The Defendants had adequate time after September 19,  
7 the date Judge Leavitt scheduled the evidentiary hearing for November  
8 7, to file their motion in a timely fashion. (Ct. Rec. 573 at 4.)  
9 The Defendants' Motion to Expedite, while procedurally proper, could  
10 not cure the inconvenience and potential prejudice the motion imposed  
11 upon the Plaintiffs.

12 **B. Length of the Motion**

13 Under Local Rule 7.1(f), memoranda supporting all  
14 nondispositive motions may not exceed 10 pages in length without the  
15 prior permission of the Court. The Defendants' Motion for  
16 Reconsideration cannot be described as dispositive, as it asks the  
17 Court to reconsider, not a substantive decision on the merits, but  
18 rather a decision to refer a nondispositive motion to a special  
19 master. The Defendants should accordingly have limited their motion  
20 to ten (10) pages in length.

21 The filing of a motion more than 4 times the length permitted in  
22 the Local Rules is a flagrant abuse of this Court's general  
23 willingness to accommodate parties who feel the need to file longer  
24 briefs. Concurrently filing a motion requesting permission to file an  
25 overlength brief, while generally appreciated as a matter of courtesy,  
26 does nothing to offset the inconvenience imposed upon both the

1 opposing party and this Court by excessively long briefs. In light of  
2 the foregoing,

3 **IT IS HEREBY ORDERED:**

4 1. The Defendants' Motion for Order Shortening Time, **Ct. Rec.**  
5 **566**, is **DENIED**.

6 2. The Defendants' Motion for Permission to File an Overlength  
7 Brief, **Ct. Rec. 565**, Is **DENIED**.

8 3. The Plaintiffs' Motion to Strike, **Ct. Rec. 573**, is **GRANTED**.

9 4. The Defendants' Motion for Reconsideration of Referral to  
10 Special Magistrate Re: Plaintiff's Motion for Sanctions, **Ct. Rec. 568**,  
11 is **STRICKEN**.

12 **IT IS SO ORDERED.** The District Court Executive is hereby  
13 directed to enter this order and furnish copies to counsel.

14 **DATED** this 8th day of December, 2006.

15  
16 s/ Fred Van Sickle  
Fred Van Sickle  
United States District Judge  
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